

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTOLIN ANDREW MARKS,)	CASE NO. C06-1796-RSM
)	
Petitioner,)	
)	
v.)	ORDER OF DISMISSAL
)	
NEIL CLARK, et al.,)	
)	
Respondents.)	
_____)	

The Court, having reviewed petitioner's 28 U.S.C. § 2241 petition, all papers and exhibits in support and in opposition to that petition, the Report and Recommendation ("R&R") of the Honorable Mary Alice Theiler, United States Magistrate Judge, petitioner's and respondent's Objections thereto, and the remaining record, does hereby find and ORDER:

(1) The Court ADOPTS the R&R with the following additional comments. Petitioner objects to the R&R, arguing that the Magistrate Judge ignored the entire administrative file, and took only select portions as true, erroneously determining that he is an alien also known as Wayne Rudder. This Court has reviewed the administrative record and finds that Judge Theiler's analysis was proper, and therefore, accepts her conclusions.

Further, the Court is not persuaded that this case is a proper indefinite detention case as petitioner asserts. For the reasons set forth in the R&R, the Court agrees that petitioner's removal period has not yet begun, and, therefore, the indefinite detention challenge is not

01 timely. Accordingly, the Court is not persuaded by petitioner's Objections.

02 Respondent has objected to the R&R in one respect – Judge Theiler's recommendation
03 that this Court deny his motion for a permanent injunction. Specifically, respondent argues
04 that the doctrines of collateral estoppel and res judicata will not provide adequate protection of
05 this Court's and respondent's resources. While the Court appreciates respondent's
06 frustrations, and recognizes that petitioner has been a prolific, and often repetitive filer, the
07 Court will accept Judge Theiler's recommendation that it deny respondent's motion for
08 permanent injunction. One of the bases of denial of petitioner's indefinite detention challenge
09 is that it is premature. However, it may be, as petitioner asserts, that once his removal period
10 has run, Trinidadian officials will not grant travel documents and petitioner will remain
11 detained. At that point, petitioner may have a valid indefinite detention argument. If the Court
12 were to grant a permanent injunction at this stage, petitioner would be prevented from raising
13 that argument. Accordingly, the Court agrees at this time that the doctrines of collateral
14 estoppel and res judicata can adequately address respondent's concerns. However, nothing in
15 this Order prevents respondent from seeking a permanent injunction in the future, should that
16 become necessary.

17 (2) Respondent's Motion to Dismiss and Motion for Permanent Injunction (Dkt. #10)
18 is GRANTED IN PART and DENIED IN PART. The Court declines to enter a permanent
19 injunction at this time. However, for the reasons set forth above and in the R&R, petitioner's
20 § 2241 petition is DENIED, and this action is DISMISSED.

21 (3) The Clerk is directed to send copies of this Order to the parties and to Judge
22 Theiler.

01 DATED this 10th day of July, 2007.

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03 RICARDO S. MARTINEZ
04 UNITED STATES DISTRICT JUDGE
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